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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

In re C.R., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

v.

C.R.,

Defendant and Appellant.

B208328

(Los Angeles County
Super. Ct. No. JJ14207)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Robert S. Ambrose, Juvenile Court Referee. Affirmed as modified.

Bruce G. Finebaum, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Assistant Attorney General, Pamela C. Hamanaka, Assistant Attorney General, James William Bilderback II and Tita Nguyen, for Plaintiff and Respondent.

C.R. appeals from orders determining that he was a ward of the juvenile court because he stole a car and assaulted someone by means likely to produce great bodily injury. He contends the court erred because it did not award him presentence custody credit, and also asks that we correct the court's orders to correctly state his maximum term of confinement. Respondent agrees with these contentions, and we will therefore amend the orders to include these corrections, and affirm those orders as modified.

FACTS AND PROCEDURAL HISTORY¹

C.R. was named in two petitions as someone who should be declared a ward of the juvenile court (Welf. & Inst. Code, § 602) because he stole a car in November 2007, and was part of a group of people who viciously beat a man just outside a market in February 2008.² At an adjudication hearing on April 30, 2008, the court found true the assault allegation. When C.R. agreed to admit the car theft charge, the court sustained both petitions. The car theft was declared a misdemeanor and a maximum confinement term of one year was imposed. The assault was declared a felony and a maximum confinement term of four years was imposed. However, the court said that the combined maximum term for both offenses would be four years and four months. The court ordered that C.R. be removed from his parents' custody and placed in an open facility. C.R. was in custody 28 days while the petitions were pending.

DISCUSSION

C.R. contends, and respondent concedes, the juvenile court was required to award him presentence custody credits of 28 days because he was to be physically confined in a facility. Respondent also agrees the issue was not waived by C.R.'s failure to raise it

¹ Because the facts underlying C.R.'s offenses are not relevant to the issues raised on appeal, we will not describe them.

² The charged offenses were unlawful taking of a car under Vehicle Code section 10851, subdivision (a), and assault by means likely to produce great bodily injury under Penal Code section 245, subdivision (a)(1).

below. (*In re Antwon R.* (2001) 87 Cal.App.4th 348, 350-353 [issue of minor's custody credits properly raised for first time on appeal]; *In re Randy J.* (1994) 22 Cal.App.4th 1497, 1503-1504 [custody credits must be awarded where minor is to be physically confined].)

Although the court properly ordered a maximum combined confinement term of four years and four months, the minute orders on both petitions recite the maximum confinement terms of one year for the car theft and four years for the assault, without mention of the shorter combined term. Respondent concedes we should correct this clerical error, and we will do so.

DISPOSITION

For the reasons set forth above, the matter is remanded to the clerk of the juvenile court with directions to enter amended orders in both sustained petitions stating that C.R. is awarded presentence custody credits of 28 days, and that his combined maximum term of confinement as a result of the orders sustaining the two petitions is four years and four months. The clerk is directed to send copies of the corrected orders to the California Youth Authority. The orders as modified are affirmed.

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RUBIN, ACTING P. J.

WE CONCUR:

BIGELOW, J.

BENDIX, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.